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10/035,622	12/28/2001	Douglas Kerr Gessford	666-044	3852

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EXAMINER

HUYNH, LOUIS K

ART UNIT PAPER NUMBER

3721

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application N .</b> 10/035,622	<b>Applicant(s)</b> GESSFORD ET AL.	
	<b>Examiner</b> Louis K. Huynh	<b>Art Unit</b> 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-10 and 18-42 is/are pending in the application.
- 4a) Of the above claim(s) 18-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-10 and 36-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of the Claims***

1. Claims 1-5 and 11-17 have been cancelled. Claims 18-35 stand withdrawn from further consideration as being drawn to nonelected inventions. Claims 6-17 and new claims 36-42 are currently pending for prosecution on the merits.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 42 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The originally file specification does not disclose and/or teach the step of: "placing a bundle identification code on the sleeve around the articles, the code identifying at least the present of the anti-theft device" as recited in Claim 42.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 6-10 and 36-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 appears to be incomplete for lacking a step of providing a plurality of articles each having an individual identification code on a surface of each the articles, and a step of arranging the articles such that at least one of the individual identification code is visible. Note that the method as claimed cannot be realized if the articles do not have individual identification codes and/or none of the individual identification code is visible.

Claim 6, lines 3-4: "the individual identification code" lacks proper antecedent basis.

Claim 6, lines 6-8: "arranging ... of the articles" renders the claim indefinite because it is unclear as to what being arranged and it is unclear as to the sequence of the steps arranging and wrapping. Note that the following wherein clause defines that the wrapping step comprises a step of placing the first film and a step of wrapping a second dark-colored, opaque or patterned film; it is unclear as to the order and/or sequence of these steps with respect to the arranging step.

Claim 36 appears to be incomplete for lacking a step of providing a plurality of articles each having an individual identification code on a surface of each the articles, and a step of arranging the articles such that at least one of the individual identification code is visible. Note that the method as claimed cannot be realized if the articles do not have individual identification codes and/or none of the individual identification code is visible.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 6-10 and 36-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA (Applicant Admitted Prior Art) in view of Limousin (US 4,586,312) and in view of Blachon (US 4,827,114).

With respect to Claims 6 and 36, AAPA discloses a method of forming a bundle from a plurality of adjacent articles in order to facilitate distribution efficiency (page 2, line 16-page 4, line 1). The method including forming a sleeve from one or more transparent films made of polyethylene or polyvinyl chloride for wrapping around a plurality of adjacent articles (A); shrinking the sleeve to form the bundle (page 15, line 11-page 16, line 4), wherein each of the articles includes an individual identification code (IC) being arranged on a common surface of the bundle (Figure 1a). The AAPA method meets all of applicant's claimed subject matter but lacks the specific teaching of at least partially wrapping the bundle with a dark-colored, opaque or patterned film around the plurality of adjacent articles in order to obscure the individual identification codes.

Limousin discloses a method of wrapping a group of articles (10A-10L) using two heat shrinkable films material (41 & 42) such as polyethylene (col. 1, lines 15-18) in order to form a bundle (12) of the group of articles. The method of Limousin includes placing a first film (41) around the group of articles, placing a second film (42) around the group of articles, securing the first film to the second film to form a first seal (51), securing the first film to the second film to form a second seal (52) to thereby forming a sleeve around the group of article, heat shrinking the sleeve with the group of article therein to form a bundle (12) (col. 7, line 18-col. 8, line 19). It would have been obvious to an ordinary skilled person in the art, at the time the invention was made, to have modified the method of AAPA by having partially wrapped the plurality of

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adjacent articles with the first and the second films, as taught by Limousin, so that the number of sealing equipments could be reduced thus reducing overhead cost.

Regarding the second film being of dark-colored, opaque or patterned, Blachon discloses a method of forming a single bundle from a plurality of adjacent articles wherein the individual identification codes of the plurality of adjacent articles are arranged on a common surface (Figures 5, 10) and are covered with a printed patterned film (1) so that the individual identification codes (11) are scrambled in order to prevent the bundle from being misread as an individual article (column 1, lines 41-48).

Since it is well known in the art that polyethylene or polyvinyl chloride film can be modified to accept printing, and that printed patterned film is utilized for obscuring individual identification codes as disclosed in the Blachon reference; therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have modified the AAPA method by having provided one of the wrapping films with a printed patterned, as taught by Blachon, in order to obscure the individual identification codes of the plurality of adjacent articles forming the bundle so that the bundle is prevented from being misread as an individual article.

With respect to Claims 7 and 37, the transparent polyethylene films used in the AAPA method are for the prospective custom to view the product information of the articles in the bundle, and the printed patterned film used in the method of Blachon is for the purpose of obscuring the individual identification codes of the bundle of articles; therefore, it would have been obvious to an ordinary skilled person in the art, at the time the invention was made, to have used the transparent polyethylene film as the first film and the printed patterned film as the

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second film so that product information can be seen through the first film and the individual identification codes can be obscured by the second film.

With respect to claims 8, 9 and 40, the technique of shrink wrapping is well known in the art to include heating and cooling the sleeve.

With respect to claims 10 and 41, the modified AAPA method meets all of applicant's claimed subject matter but lacks the specific teaching of a step of applying a bundle identification code to the bundle. However, Blachon also discloses in the embodiment of Figure 13 a bundle formed from a plurality of adjacent articles wherein the individual identification codes (35) are scrambled and the external collective identification code (37) is attached to the wrapping material (38) and visible for scanning. Therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have modified the AAPA method by having applied a bundle identification code to the single bundle once formed, as taught by Blachon, so that the single bundle can be automatically identified as a unit.

With respect to Claim 38, the method of Limousin includes two rolls of continuous polyethylene film (41 & 42), and a well known heat sealing mechanism (88 & 90) for sealing and cutting the films. It would have been obvious to an ordinary skilled person in the art, at the time the invention was made, to have included two rolls of continuous polyethylene film and a sealing mechanism in the modified method of AAPA, as taught by Limousin, in order to partially wrapped the plurality of adjacent articles with the films and to seal and cut the films prior to heat shrinking the film around the plurality of articles.

With respect to Claim 39, the method of Limousin includes forming a first seal (51), advancing the group of articles between the film and toward the first seal, forming the second

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seal (52), inherently forming a next first seal and cutting the films between the second seal and the next first seal as is known in the art. Such method is incorporated into the modified AAPA method as an obvious matter.

7. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 36 above; and further in view of Baldwin et al. (US 5,982,284).

The modified method of AAPA meets all of applicant's claimed subject matter but lacks the specific teaching of a step of placing an anti-theft device in or on one of the plurality of articles or on or in the bundle, and a step of placing a bundle identification code on the sleeve around the articles wherein the code identifies at least the present of the anti-theft device.

Baldwin discloses an anti-theft device (10) to be placed on a product in order to alert a store attendant of any potential theft.

It would have been obvious to an ordinary skilled person in the art, at the time the invention was made, to have further modified the AAPA method by having placed an anti-theft device on each of the plurality of adjacent articles, as taught by Baldwin, in order to alert a store attendant of any potential theft.

Blachon discloses in the embodiment of Figure 13 a bundle formed from a plurality of adjacent articles wherein the individual identification codes (35) are scrambled and the external collective identification code (37) is attached to the wrapping material (38) and visible for scanning. Therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have modified the AAPA method by having applied a



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bundle identification code to the single bundle once formed, as taught by Blachon, so that the single bundle can be automatically identified as a unit.

The collective identification code of Blachon is for identifying information about the articles in the bundle; therefore, it would have been obvious to an ordinary skilled person in the art to have included information about the anti-theft device in the collective identification code since anti-theft device is also a product to be included with the each of the plurality of adjacent articles.

#### ***Response to Arguments***

8. Applicant's arguments with respect to claims 6 and 36 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

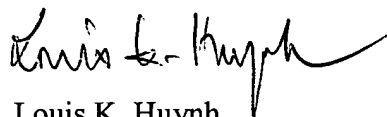
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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (703) 306-5694.

The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louis K. Huynh  
Patent Examiner  
Art Unit 3721

June 10, 2004